

REMARKS

Upon entry of the present amendment, claims 1-41 are all the claims pending in the application. Claims 1 and 18 are amended to incorporate the subject matter of claims 2 and 19, respectively. Claims 2 and 19 are cancelled without prejudice or disclaimer. No new matter is presented.

As an initial matter, Applicant notes that the present Amendment is not believed to raise new issues that would necessitate further search or consideration. Rather, as noted above, claims 1 and 18 are amended solely to incorporate the limitations of claims 2 and 19. Therefore, entry and consideration of the present Amendment is requested.

To summarize the Office Action, claims 1-3, 18-20 and 41 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,434,395 to Stork et al. (hereinafter "Storck"); and claims 4-7 and 21-24 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Storck. Further, claims 8-17 and 25-40 are allowed.

Claim Rejections – 35 U.S.C. § 102(b)

As noted above, claims 1-3, 18-20 and 41 stand rejected under § 102(b) as allegedly being anticipated by Stork. Applicant respectfully traverses.

As discussed below, Storck fails to anticipate all the limitations of independent claims 1 and 18. For instance, claim 1 defines an apparatus for establishing a data transfer mode through the identification of the insertion of a card comprising, *inter alia*, a card insertion identifier that identifies whether the card is inserted, a card assignment information receiver that if the card

insertion identifier identifies that the card is inserted, receives predetermined card assignment information from a card driver, a data transfer mode establisher that establishes the data transfer mode for the card based on the card assignment information, and a data transfer mode releaser that if the card insertion identifier identifies in the data transfer mode that the card is no longer inserted, informs the card driver that the card is no longer inserted to release the data transfer mode.

Notwithstanding the Examiner's rejection, Applicant submits that Storck fails to teach *at least* the feature of a "data transfer mode releaser that if the card insertion identifier identifies in the data transfer mode that the card is no longer inserted, informs the card driver that the card is no longer inserted to release the data transfer mode", as recited by claim 1.

Indeed, Storck suggests nothing regarding the **removal** of a card during a "data transfer mode", as claimed. Rather, Storck merely teaches a card transaction device with LED diodes that are provided to indicate incompatibility of cards, the running of a read sequence, and the loading of data. *See* Storck at col. 10, line 66 col. 10, line 7. Further, Storck teaches that "introducing a card into any one of the slots" switches on the transaction device and sends a signal to the card to instruct a transfer of the card access protocol. *See* Storck at col. 11, lines 9-15. However, the Examiner has not identified any portion of Storck that discloses any identifying, in a data transfer mode, that a card is not inserted, nor has the Examiner identified any portion of the Storck reference that discloses informing the card driver to release the data transfer mode in the manner claimed.

Additionally, Applicant notes that the Examiner alleges that the LEDs indicate that a card is inserted and “if none are lit, the card is no longer inserted.” *See* Office Action at page 5. However, Applicant disagrees with the Examiner’s contention that the LEDs teach the claimed data transfer mode releaser. As discussed above, Storck merely teaches that LEDs indicate card incompatibility, a read sequence, and loading data, which does not suggest anything about informing a card driver that a card is no longer inserted to release a data transfer mode, as recited by claim 1.

It is well settled that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). However, as evidenced by the foregoing, Storck fails to disclose *at least* the feature of the data transfer mode releaser, as claimed. Therefore, all the elements of claim 1 are not disclosed by Storck, and reconsideration and withdrawal of the rejection is requested.

Further, Applicant submits that the above arguments are equally applicable to the rejection of claim 18, which defines method of establishing a data transfer mode through the identification of the insertion of a card reciting similar features. Thus, reconsideration and withdrawal of the rejection of claim 18 is likewise requested. In addition, Applicant submits that claims 3-7 and 20-24 and 41 are allowable at least by virtue of depending from claims 1 and 18, respectively.

Claim Rejections - 35 U.S.C. § 103(a)

As noted above, claims 4-7 and 21-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Storck. Without commenting substantively on the grounds of rejection, Applicant submits that claims 4-7 and 21-24 are believed to be allowable at least by virtue of depending from claims 1 and 18, respectively.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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